

**CALENDAR ITEM
54**

A Statewide

04/06/10

S Statewide

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POSITIONS ON LEGISLATION

INTRODUCTION

Several bills were introduced in the California Legislature this year that are relevant to the State Lands Commission's responsibilities and jurisdiction. This report lists each relevant bill with a brief summary and a recommendation from State Lands Commission staff on the position that it believes the Commission should take.

LEGISLATION

1. AB 2598 (Brownley): Sea Level Action Plan

SUMMARY:

This bill would require each local agency trustee of legislatively granted public trust lands to prepare a sea level action plan by July 1, 2011, and submit the plan to the Natural Resources Agency, the Governor's Office of Planning and Research, and the State Lands Commission.

RECOMMENDED ACTION:

Staff recommends that the Commission support this legislation. This bill would help the Commission and local grantees prepare for sea level rise and achieve the goals adopted by the Commission at its December 17, 2009 meeting.

2. AB 1998 (Brownley): Reusable Shopping Bags

SUMMARY:

This bill would encourage the use of reusable shopping bags by requiring specific types of large retail stores, such as supermarkets, to only provide its customers reusable carry-out bags and specific types of paper bags—plastic carry-out bags

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would be prohibited. This bill would require a store to charge a “green bag fee” of not less than \$0.25 for each paper carryout bag distributed at the point of sale.

RECOMMENDED ACTION:

Staff recommends that the Commission support this legislation. This bill would significantly reduce litter and marine debris caused by the mass distribution of single-use shopping bags. The Commission supported two similar bills in a resolution it adopted at its June 1, 2009 meeting.

3. SB 1034 (Ducheny): Unlawful Excavation on Public Lands

SUMMARY:

This bill would allow a state agency to issue an order that assesses a civil penalty against a person who willfully excavates upon, or removes, destroys, injures, or defaces archaeological resources on public lands.

RECOMMENDED ACTION:

Staff recommends that the Commission support this legislation. This bill would afford greater protection to archaeological resources, including but not limited to shipwrecks, on lands under the Commission’s jurisdiction. The creation of civil penalties and the mechanism to enforce them would also aid in the remediation efforts on disturbed sites by providing revenues to implement those efforts.

4. SB 1039 (Ducheny): Port of San Diego Trust Revenues

SUMMARY:

This bill would authorize the San Diego Unified Port District to expend up to an unspecified percent of revenues derived from maritime industrial facilities owned by the district to provide incentives to cities in which the facilities are located for projects to “maintain” the district’s working waterfront. This bill would restrict those projects to an area within an unspecified number of yards of the tidelands and submerged lands boundary of the district.

RECOMMENDED ACTION:

Staff recommends that the Commission oppose this legislation. This proposal attempts to authorize a violation of the Port’s fiduciary responsibilities to the statewide public as a trustee of state sovereign lands and violation of Article XVI, Section 6 (Gift Clause) of the California Constitution since it could lead to the

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expenditure of tidelands trust funds for non-trust purposes and amount to a gift of state funds.

5. AB 2719 (DeVore): Oil and Gas Leases

SUMMARY:

This bill devises an end-run on the State Lands Commission jurisdiction by creating the Interim Resources Management Board for the purpose of approving leases for extraction of oil and gas in state waters from offshore and onshore facilities. This bill could lead to the approval of the Tranquillon Ridge oil lease and potentially other oil leases, some of which may be contrary to the current California Coastal Sanctuary Act.

RECOMMENDED ACTION:

Staff recommends that the Commission oppose this legislation. On January 29, 2009, the Commission found that approval of the proposed Tranquillon Ridge, which would have been the first new oil and gas lease of public trust lands within the California Coastal Sanctuary in over 40 years, was not in the best interest of the state. Importantly, the Commission was created in 1938 as an independent agency, following allegations of political corruption, to bring transparency and accountability to oil and gas leasing decisions. The interim oil and gas leasing process proposed in this bill would ignore the Commission's January 29, 2009 finding and create a leasing process that circumvents the existing protections in current law.

6. Budget Proposal: State Lands Commission's Legal Services

SUMMARY:

This Governor's current budget proposal would allow the Department of Finance to adjust the Department of Justice's budget unilaterally to allocate specific amounts of funding to individual departments, including the State Lands Commission, for legal services currently determined by the Department of Justice based upon client agency needs. This budget proposal is not considered a cost-savings proposal.

RECOMMENDED ACTION:

Staff recommends that the Commission oppose this budget proposal. This bill does not create cost savings; instead, it changes the management structure of how legal services provided by the Attorney General's office will be allocated.

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Under the current system, the Attorney General's office receives money from the General Fund to provide legal services for certain state agencies. The Attorney General's Office makes the decisions on how it should allocate its resources to represent its client state agencies. This budget proposal would allow the Director of Finance to set specific caps on the legal services each agency receives from the Attorney General's office; however, the same amount of money will be spent from the General Fund. The unintended consequence of this proposal as it relates to the State Lands Commission is that the public will know exactly how much money the Commission has to litigate a case. As a result, an opposing party in litigation could exploit the Commission if they know that the specific cap has been reached. This could also lead to fewer settlements and less litigation deterrence. The real intention of this proposal is to ostensibly curb the vast amount of General Fund revenues spent to represent the Department of Corrections and Rehabilitation. This could be accomplished by applying this budget proposal to that department only.

7. Budget Proposal and AB 2601 (Jeffries): Oil and Gas Leases

SUMMARY:

The Governor's current budget proposal and AB 2601 assume approval for authorization of a lease for the extraction of oil and gas from state-owned tide and submerged lands off the Santa Barbara Coast known as Tranquillon Ridge and allocates the lease revenue to specific state programs.

RECOMMENDED ACTION:

Staff recommends that the Commission oppose this budget proposal and legislation. As stated above, the Commission has already found that the proposed Tranquillon Ridge oil lease is not in the best interest of state; therefore, the state should not budget as if the the Tranquillon Ridge oil lease will be approved.